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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,132

08/28/2006

Patrice Richard

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EXAMINER

SU, SUSAN SHAN

ART UNIT

PAPER NUMBER

3761

NOTIFICATION DATE

DELIVERY MODE

12/09/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/577,132	<b>Applicant(s)</b> RICHARD, PATRICE	
	<b>Examiner</b> SUSAN SU	<b>Art Unit</b> 3761	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-10,12,13,15-17 and 19.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Tatyana Zalukaeva/  
 Supervisory Patent Examiner, Art Unit 3761

/Susan Su/  
 Examiner, Art Unit 3761

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that the Examiner is incorrect in combining a wound drainage vacuum bottle with a blood collection device because the wound drainage vacuum bottle is for slow removal of fluids whereas a blood collection system would require fast removal. Although the Redon-type vacuum bottle of Seddon is not taught to be used for blood removal from placenta, but one skilled in the art would recognize that it still provides a constant vacuum that would facilitate the removal of blood. The Examiner maintains that since it is known in the art to use vacuum to aid in the removal of placental blood, it is within the knowledge of one skilled in the art to look into vacuum containers because they also serve the needed suction function, such as the claimed Redon-type vacuum bottle, to be used for blood removal. Applicant's arguments are therefore not found persuasive.

Claim 1 and 17 are amended by incorporating previously rejected claims 11 & 18, respectively, therefore the current rejections for claims 1 and 17 are over the combination of Deverre, Dracker, and Seddon. Deverre teaches an extraction needle and a collection vessel to extracting placental blood. Dracker teaches using vacuum for applying suction to remove placental blood more efficiently. Seddon teaches a vacuum bottle used to suction and collect fluid from a patient. It would have been obvious to one skilled in the art at the time of the invention to modify Deverre with Dracker and Seddon for utilizing suction in the removal of placental blood while simplifying the device by combining suction and collection function into one structure. Claim 13 is amended by incorporating previously rejected claim 14, thus the current rejection for claim 13 is over Dracker in view of Seddon. Dracker teaches an extraction needle for removing placental blood, a collection vessel, and a vacuum but does not teach that the vacuum is in fluid connection with the needle or that the vessel creates the vacuum. Seddon teaches a Redon-type collection vessel which also provides vacuum for the removal of fluids from a patient. It would have been obvious to one skilled in the art at the time of the invention to modify Dracker with Seddon for the purpose of eliminating the need for separate vacuum and collection vessel but instead having one structure serve both purposes.

Dependent Claims 2-7, 9, 12, 15, 16, and 19 are dependent on the above rejected independent claims and recite limitations that are taught by the above references. They are therefore rejected over prior art. Claim 8 is found to be obvious over Deverre, Dracker, and Seddon and further in view of Darling in that Darling teaches the claimed knurled knob. It is obvious for one skilled in the art at the time of the invention to incorporate a knurled knob for having an easy-to-grip means to control flow speed/volume. Claim 10 is obvious over Deverre, Dracker, and Seddon and further in view of Van Der Heiden. Van Der Heiden teaches packaging placental collection device in a sterile package. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Van Der Heiden for the purpose of keeping the device sterile prior to use.